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EXAMINER

GIBSON, KESHIA L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,020

Applicant(s)

SHEHADA, RAMEZ EMILE
NECOLA

Examiner

Keshia Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 13-14, filed 2/9/06, with respect to the double patenting rejection in view of applications 10/775,666 and 10/775,666 have been fully considered and are persuasive. The copending application requires sensing elements on an outside surface of the lumen and sensing properties of tissue while the currently amended application requires the sensing elements to sense a substance *within* the lumen (and, as such, implicitly requires sensing elements on the inner surface of the lumen). The provisional double patenting rejections of in view of copending applications 10,775,666 and 10/776,022 have been withdrawn.

2. Applicant's arguments, see pages 13-14, filed 2/9/06, with respect to double patenting rejection in view of application 10/775,670 have been fully considered and are persuasive. The copending application requires sensing elements that branch from the drain wall while the currently amended application implicitly requires sensing elements on the inner surface of the lumen. The provisional double patenting rejection of in view of copending 10,775,670 has been withdrawn.

3. Applicant's arguments filed 2/9/06 have been fully considered but they are not persuasive. Applicant has argued:

- a. In regards to Claims 1-4, 6-7, 9-11, and 16-21 as well as Claims 5, 14, 8, 15, and 12, Johnson does not teach the sensing of a [biochemical] property of a substance within a drain lumen. However, Johnson teaches that the sensing elements may end at (and therefore aim into) the drain lumen (Fig. 7); this would

result in the sensing of a substance within the drain lumen. As such, Johnson is considered to teach the sensing of a [biochemical] property of a substance within a drain lumen.

- b. In regards to Claims 1-7, 9, 16-19, and 21-23, Takezawa et al. does not sense the biochemical property of a substance within the lumen. However, the grounds of rejection to which most of the basis for this argument are addressed have been amended-- see new grounds rejections below. Additionally, Applicant has argued that Takezawa is to monitor properties inside a natural body cavity, not a surgical wound. However, it is noted that the features upon which applicant relies (i.e., a surgical wound) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, the claim inside recites "a patient's body"; and a "body cavity" is found within "a patient's body." Furthermore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.
4. Despite applicant's arguments, Johnson and Takezawa are still considered to anticipate and/or render obvious the structural limitations set forth in the claimed invention, as presented in the previous Office Action (which has been modified and presented again, in view of applicant's amendments, below).

Specification

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because it contains the language "Disclosed are". Again, it is suggested that this language be deleted; ***no substitute language is required***. Correction is required. See MPEP § 608.01(b).

Claim Objections

7. Claim 3 is objected to because of the following informalities: it is suggested that "a" be inserted in front of each recitation of "plurality," so that the language reads "a plurality" instead of "plurality." Appropriate correction is required.

8. Claim 13 is objected to because of the following informalities: it is suggested that "the" be reinserted into the claim to replace "a" so that the language reads, "selected from the group comprising" instead of "selected from a group comprising." Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 6-7, 9-13, and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US 3,866,599).

In regard to Claim 1, Johnson discloses a surgical drain 1 comprising an elongated conduit 2 configured to be implanted in and to drain from a patient's body (column 1, lines 7-10). The drain 1 further comprises at least one sensing system 11, 21, 27; the fibers are configured to transmit and receive energy from body tissue (column 1, lines 20-25 and lines 44-49; column 2, lines 12-22 and lines 51-66). Johnson discloses multiple sensing (and transmitting) systems, any of which may be considered at least one sensing element. Johnson further discloses that the sensing elements may end within the lumen, thus the sensing elements can sense a biochemical property within the lumen (Fig. 7, column 3, lines 25-35).

In regard to Claim 2, the drain 1 is designed to drain body fluids, and is therefore considered capable of draining blood, puss, bile, or intestinal contents.

In regard to Claim 4, sensing elements can sense physiological properties, including oxygenation (column 1, lines 44-49; column 2, lines 16-22 and 33-36).

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In regard to Claim 6, the drain further comprises an oximeter that receives energy from the optical fibers (at least one sensing element) 11, 21, 27 (column 2, line 62-column 3, line 5). The oximeter provides measurements, so it would have to display these measurements in some form to the user. Thus, the oximeter is considered analogous to a display.

In regard to Claim 7, Johnson discloses a surgical drain 1 comprising an elongated conduit 2 having a lumen (cavity or passage) configured to be implanted in and to drain from a patient's body (column 1, lines 7-10). The drain 1 further comprises a first sensing system 11, 21, 27 and a first transmitting element 11, 21, 27; the fibers are configured to transmit and receive energy into the lumen (the sensing elements may end within the lumen, thus the sensing elements can sense a biochemical property within the lumen) (column 1, lines 20-25 and lines 44-49; column 2, lines 12-22 and lines 51-66, Fig. 7, column 3, lines 25-35). Any portions of the lumen proximate (near) the first sensing system 11, 21, 27 and the first transmitting system 11, 21, 27 can be defined as a "first position" or a "second position." Johnson discloses multiple sensing/transmitting systems, any of which may be considered a first sensing system and a first transmitting system.

In regard to Claim 9, the sensing/transmitting elements 11, 21, 27, and thus their associated first and second positions, are arranged in a circle first and second positions can be defined so as to be located on substantially opposite sides of the drain lumen.

In regard to Claim 10, as discussed for claims 1 and 7, Johnson discloses multiple sensing/transmitting systems, any of which (not defined as a first sensing system or a

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first transmitting system) may be considered a second sensing system or a second transmitting system. Any portions of the lumen proximate (near) the second sensing system 11, 21, 27 and the second transmitting system 11, 21, 27 can be defined as a "third position" or a "fourth position."

In regard to Claim 11, a processing system in communication with the sensing systems and is used to compare (or is capable of comparing) a difference between the energy detected by the systems (column 2, line 62-column 3, line 5).

In regard to Claims 12-13, the drain comprises a third sensing system (associated with element 6) configured to sense pressure (column 1, lines 32-49, column 2, lines 12-28).

In regard to Claim 15, see discussion for Claim 6.



In regard to Claim 16, as discussed previously, Johnson discloses a surgical drain 1 having a lumen 12, 22, etc. and a first sensing system 11, 21, 27. Johnson further discloses a process in which the drain is to be placed into the body in proximity to body tissue and receives information from the first sensing system 11, 21, 27; the information received is monitored to evaluate the condition of the tissue (column 2, lines 12-28).

In regard to Claim 17, energy (light, etc.) is transmitted within the lumen 12, 22 and receiving by the first sensing system 11, 21, 27 (column 2, lines 12-28).

In regard to Claim 18, the process further includes processing the received information, such as with an oximeter (column 2, lines 12-28; column 2, line 51-3, line 5).

In regard to Claim 19, see discussion for Claim 5.

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In regard to Claim 20, the drain is anchored to the tissue through use of an expandable sleeve (column 3, line 36-column 4, line 13).

In regard to Claim 21, the difference between Claim 21 and Claim 16 is that the drain comprising second sensing system in addition to the first sensing system. As discussed for Claim 10, the drain further comprises a second sensing system.

10. Claims 1-3, 5, 7, 16-19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Takezawa (5,108,364).

In regard to Claim 1, Takezawa et al. disclose a surgical drain 1 comprising an elongated conduit 2 and at least one sensing element 21 to sense a biochemical property (blood pressure) (Figs. 1A-5; column 3, lines 13-23; column 4, line 51- column 5, line 20; column 5, line 38-column 6, line 14).

In regard to Claim 2, the drain 1 is designed to drain body fluids, and is therefore considered capable of draining blood, puss, bile, or intestinal contents.

In regard to Claim 3, the drain 1 further comprises a second sensing element 10, which measures the temperature within the body - a biochemical property different from that of the at least one sensing element; therefore the drain comprises a plurality of sensing element to sense a plurality of biochemical properties (Figs. 1A-5; column 2, lines 33-50).

In regard to Claim 5, the drain has a drain portion having a plurality of holes 5 spaced along its length (Figs. 1A-5; column 3, lines 26-43).

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In regard to Claim 7, Takezawa et al. disclose a surgical drain 1 comprising an elongated conduit 2 having a lumen (cavity), a first sensing system 21, and a first transmitting system 14 (Figs. 1A-5; column 2, lines 49-68; column 3, lines 3-25; column 4, line 33- column 5, line 20). (The second auxiliary tube 14 can transfer pressures in different regions of the body cavity or be used to supply liquid drugs and is therefore considered to be analogous to a transmitting system.) Any portions of the lumen proximate (near) the first sensing system 21 and the first transmitting system 14 can be defined as a "first position" or a "second position."

In regard to Claim 16, Takezawa et al. disclose a method comprising implanting a surgical drain having a lumen and a first sensing system (14 or 21) into a body, receiving information from the first sensing system concerning a biochemical property within the lumen and monitoring the information received from the first sensing system (column 1, line 50- column 2, line 28; column 4, line 1-column 5, line 5; column 5, line 38-column 6, line 14).

In regard to Claim 17, see discussion for Claim 7.

In regard to Claims 18-19, see discussion for Claim 6.

In regard to Claim 21, the main difference between Claim 21 and Claim 16 is that the drain comprising second sensing system in addition to the first sensing system. As discussed for Claims 3-4, the drain further comprises a second sensing system.

In regard to Claims 22-23, the method comprises processing information from the first and second sensing systems to compare a difference in information received from the

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sensing systems- proximate to different positions along the drain lumen (column 4, line 61-column 5, line 5; column 5, lines 34-37; column 21, lines 21-26).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson.

In regard to Claim 3, Johnson discloses that the drain comprises a plurality of sensing elements, but does not expressly disclose that the elements sense a plurality of biochemical properties. However, it would have been obvious to one of ordinary skill in the art to modify the drain of Johnson to have the sensing elements to sense a plurality of properties, since it is known to configure a drain and similar devices so as to sense multiple biochemical properties, as supported by Takezawa et al. and Kalib (US 5,476,434).

14. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Russo et al. (US 4,317,452).

In regard to Claims 5 and 14, Johnson discloses a surgical drain 1 having a conduit configured to rest against a substantial length of tissue within the body cavity and having a lumen 22 (considered analogous to a drain hole) (Figs. 1-6; column 2, line 29-column 3, line 5). Johnson discloses that claimed invention except for the conduit comprising a plurality of holes spaced along substantially the entire length of the drain portion. Russo et al. discloses a surgical drain comprising a conduit 10 having a plurality of holes along substantially the entire length of the drain portion (Fig. 1; column 2, lines 7-19; column 4, line 56-column 5, line). Russo et al. teach that having holes along a substantial portion of the conduit 10 allows body fluids in the cavity to pass into and along the conduit into a drainage site. Johnson and Russo et al. are analogous art because they are within the same field of endeavor: surgical catheters/drains. One of ordinary skill in the art would have been motivated to modify the surgical drain of Johnson by providing it with a plurality of holes, as taught by Russo et al., since doing so would allow for body fluid to be drained from a body cavity along a substantial length of the tube and/or from a substantial portion of the body cavity. Thus, it would have been obvious to one of ordinary skill in the to provide the surgical drain of Johnson with a plurality of holes, as taught by Russo et al., since doing so would allow for body fluid to be drained from a body cavity along a substantial length of the tube and/or from a substantial portion of the body cavity.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Yarger (US 5,360,414).

In regard to Claims 8 and 15, Johnson discloses that the transmitting element and sensing system 11, 21, 27 are embedded in the conduit (column 3, lines 6-9). Johnson discloses that claimed invention except for the element and system being embedded within the conduit behind a material that is optically transparent. Yarger discloses a surgical drain for removing fluid from a body cavity. Yarger teaches that the elongate tubular section 22 (analogous to an elongated conduit) may be made of a transparent or translucent material so that a caregiver can view the flow of the fluid through the lumens or the interior of the tube 22 (column 8, lines 24-27). One would have been motivated to modify the elongated conduit of Johnson to be made of a transparent material as taught by Yarger, since doing so would allow a caregiver can view the flow of the fluid through the lumens or the interior of the conduit. Thus, it would have been obvious to one of ordinary skill in the art to modify the elongated conduit of Johnson to be made of a transparent material as taught by Yarger, since doing so would allow a caregiver can view the flow of the fluid through the lumens or the interior of the conduit.

******Alternative rejections for Claims 12-15 in association with Johnson******

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Takezawa et al.

In regard to Claim 12, Johnson discloses the claimed invention but does not disclose that the drain further comprises a third sensing system. Takezawa et al. disclose a surgical drain comprising an elongated conduit and a sensing system, which includes a temperature sensor. Takezawa et al. teach that providing a drain with temperature sensor allows for control, observation, and monitoring of the temperature of the internal tissue during or after operation and/or during treatment. One would have been motivated to modify the drain of Johnson to provide a temperature sensor (i.e., a third sensing system different from the first and second sensing systems) since doing so would allow for control, observation, and monitoring of the temperature of the internal tissue during or after operation and/or during treatment. Thus, it would have been obvious to one of ordinary skill in the art to modify the drain of Johnson to provide a temperature sensor (i.e., a third sensing system different from the first and second sensing systems) since doing so would allow for control, observation, and monitoring of the temperature of the internal tissue during or after operation and/or during treatment.

In regard to Claim 13, Takezawa discloses that the biochemical property may be temperature (column 3, lines 26-43; column 4, lines 1-26) but does not expressly disclose that the property may be oxygenation, pH, perfusion, NADH levels, biochemical composition, or drug concentration. However, it would have been obvious to one of ordinary skill in the art to select any of these as the biochemical property since these property and temperature are art recognized equivalents for their use as observable biochemical properties to be sensed by a sensor, as supported by Tu et al. (US 2003/0009110) and Kalib (column 5, lines 46-67) and the selection of any of these

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known equivalents to be sensed by a sensor would be within the level of ordinary skill in the art.

In regard to Claim 14, the drain has a drain portion having a plurality of holes 5 spaced along its length (Takezawa: Figs. 1A-5; column 3, lines 26-43).

In regard to Claim 15, the drain further comprises a display (monitor) in communication with the third sensing system and configured to depict data (Takezawa: column 4, lines 3-15 and lines 44-50).

******End Alternative Rejection******

17. Claims 4, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takezawa et al.

In regard to Claim 4, Takezawa discloses that the biochemical property sensed is temperature (column 3, lines 26-43; column 4, lines 1-26) but does not expressly disclose that the property may be oxygenation, pH, perfusion, NADH levels, biochemical composition, or drug concentration. However, it would have been obvious to one of ordinary skill in the art to select any of these as the biochemical property since these property and temperature are art recognized equivalents for their use as observable biochemical properties to be sensed by a sensor, as supported by Tu et al. (US 2003/0009110) and Kalib (column 5, lines 46-67) and the selection of any of these known equivalents to be sensed by a sensor would be within the level of ordinary skill in the art.

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In regard to Claim 6, Takezawa discloses that the drain 1 further comprises a display (monitor) in communication with the second sensing element 10 and configured to depict data (column 4, lines 3-15 and lines 44-50) but does not expressly disclose that the first sensing element is in communication with a display that depicts data. However, it would have been obvious to one of ordinary skill in the art to provide a display in communication with the first sensing element since Takezawa discloses the use of displays to depict information from a sensing element. Furthermore, it is well known within the art to put sensors in communication with displays to depict information gathered by the sensors.

In regard to Claim 9, Takezawa discloses the claimed invention but does not expressly disclose that the sensing and transmitting systems are located on opposite sides of the drain lumen. However, Takezawa discloses that the positioning of the elements in relation to each other affects the performance of the drain (column 5, lines 1-14). As such, the relative position of each element is considered to be a result effective variable. Thus, it would have been obvious to one of ordinary skill in the art to provide the sensing and transmitting elements opposite each other since Takezawa discloses that the positioning of the elements is important and thus would lead one of ordinary skill in the art to optimization the positioning of the elements.

18. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takezawa in view of Yarger.

In regard to Claim 8, Takezawa discloses that claimed invention except for the element and system being embedded within the conduit behind a material that is optically transparent. Yarger discloses a surgical drain for removing fluid from a body cavity. Yarger teaches that the elongate tubular section 22 (analogous to an elongated conduit) may be made of a transparent or translucent material so that a caregiver can view the flow of the fluid through the lumens or the interior or the tube 22 (column 8, lines 24-27). One would have been motivated to modify the elongated conduit of Takezawa to be made of a transparent material as taught by Yarger, since doing so would allow a caregiver can view the flow of the fluid through the lumens or the interior or the conduit. Thus, it would have been obvious to one of ordinary skill in the art to modify the elongated conduit of Takezawa to be made of a transparent material as taught by Yarger, since doing so would allow a caregiver can view the flow of the fluid through the lumens or the interior or the conduit.

Double Patenting

19. Claims 1-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 33-62 and 75-102 of copending Application No. 10/776,021 in view of Johnson.

Claims 1-15 of the current application mirror or substantially correspond to Claims 33-62 and 75-102 of the copending application. The claims of the current application do not disclose an anchor, a projection, a flap, or a loop attached to the drain. Johnson teaches a drain having anchors, projections, flaps, and/or loops (Figs. 8-

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11) and further teach that these elements provide a variety of beneficial functions, including aiding in positioning of the catheter and assisting in fluid flow (Figs. 8-11, column 3, lines 36-column 5, line 15. One of ordinary skill in the art would have been motivated to modify the claimed invention to provide anchors, projections, and/or loops since doing so would provide beneficial functions such as positioning of the catheter and assisting in fluid flow. Thus, it would have been obvious to one of ordinary skill in the art to modify the claimed invention to provide anchors, projections, and/or loops since doing so would provide beneficial functions such as positioning of the catheter and assisting in fluid flow.

This is a provisional obviousness-type double patenting rejection.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Yanda (US 4,413,633).

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Keshia Gibson
Examiner
Art Unit 3761

klg 2/23/06

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
